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LHFA's President Addresses Congress on Housing Tax Issues

Remarks to the Committee on Ways and Means Subcommittee on Oversight
Milton Bailey, President, Louisiana Housing Finance Agency
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Honorable Chairman John Lewis and distinguished members of Committee on Ways and Means Subcommittee on Oversight, my name is Milton J. Bailey, President of the Louisiana Housing Finance Agency. Thank you for allowing me to present testimony today on housing tax issues on behalf of the State of Louisiana and Governor Kathleen Babineaux Blanco related to the redevelopment of the Louisiana communities affected by Hurricanes Katrina and Rita.

First, permit me to share a few brief observations about the effects in Louisiana of the first and third most devastating and catastrophic disasters our country has ever faced, Katrina and Rita. Hurricane Katrina was by far the single most expensive disaster in American history while Hurricane Rita ranks third on the all-time list. The magnitude of the infrastructure and socio-economic damage has never been experienced by any other state. Together, the storms caused an estimated $100 billion dollars in damages to homes, property, businesses and infrastructure in Louisiana alone. About $40 billion dollars of these losses are covered by private hazard and flood insurance. The Governor and the citizens of Louisiana are sincerely thankful to Congress and the American people for their generosity and for the estimated $26 billion appropriated to the State to help rebuild homes and physical infrastructure. This kind of aid was unprecedented, but we are still facing unprecedented challenges and need Congress's continued support. Even with that appropriation, there is a remaining gap in un-recovered losses of approximately $34 billion dollar…amounting to about $20,000 in un-recovered losses for every household in the Louisiana. This funding gap does not include the 127,000 jobs and 4,000 businesses in Southeast Louisiana that haven't come back, which shrunk Louisiana's economy by $11.5 billion in 2006.

The magnitude of the housing, population and social service losses caused by the hurricanes is evidenced by a few additional statistics:

HOUSING

-123,000 homes in Louisiana were destroyed or suffered major damage.

-82,000 rental properties were destroyed or suffered major damage.

-Of the total rental and owner occupied units that are now uninhabitable, a substantial portion was occupied by low income households.

-Affordable housing in New Orleans is virtually non-existent with over 35% of the City's rental units either destroyed or severely damaged by Katrina. Over 65% of the owner occupied units that were damaged or destroyed in the City of New Orleans belonged to low to moderate income families. Low to moderate income families in New Orleans rented 89% of the rental units that were damaged or destroyed. An estimated total of 119,770 owner occupied and rental units in New Orleans serving the low to moderate income population, or 88.7%, were damaged or destroyed.

POPULATION

-The population of Orleans Parish which was 455,000 in June 2005 had fallen to less than 200,000 in September 2006. Plaquemines Parish lost an estimated 25% of its population while St. Bernard decreased from 65,000 to 19,000 residents. By comparison, St. Tammany Parish north of the Lake and out of the direct path of the storms, gained 15,000 people and East Baton Rouge Parish had an influx of nearly 34,000 people.

-In mid-November 2006, 66,000 FEMA trailers remained occupied statewide, and 5,848 individuals remained on the FEMA waiting lists for temporary housing. Louisiana citizens were displaced all over the state and country. Over 90,000 are in Texas and significant numbers in Mississippi, Georgia and Florida. In total, approximately 296,000 Louisiana residents were living outside of the State as of November 2006.

-The hurricanes displaced nearly 90,000 persons aged 65 and older, many of whom lived alone and had at least one disability. Displaced aged persons also were poor (an estimated 15%) and one quarter lacked vehicles.

-The child poverty rates in the areas most affected by the hurricanes were estimated by the Congressional Research Service (CRS) to be over 30%.

SOCIAL SERVICES AND HEALTH CARE

The non-profit sector accounted for 5.6% of the State's total workforce and 55% of all nonprofit jobs were in the heath care industry. 70% of these jobs were located in the parishes most devastated by the hurricanes.

Second, permit me to share the observations of our State officials about how the costs of responding to the catastrophic disasters of Katrina and Rita (which have been extraordinary at all levels of government) have been shared. Much of the damage experienced in Louisiana has been the result of the failure of Federal levees which should have held in the face of a Category 3 event like Katrina. In addition to disaster costs unrelated to Federal relief programs, the State has paid to date approximately $400 million to FEMA to match costs associated with FEMA's "Individual Assistance" program. For the State of Louisiana, the FEMA cost-share alone, even after being adjusted up to 90% Federal share for FEMA's Public Assistance program, remains over $1.5 billion. Given that Louisiana generates only about $8 billion in annual state tax revenues and has only 4.5 million residents, this match requirement further burdens Louisiana's recovery. Governor Blanco and the State of Louisiana requests the Administration and Congress support an adjustment of the Federal cost-share to 100% for all FEMA programs in the Katrina and Rita disaster areas. In addition to providing New York with 100% federal cost share after the tragedy of 9/11, there is ample precedence for FEMA approving a 100% federal cost share…32 other disasters, including Hurricanes Hugo, Andrew and Iniki, received a similar 100% federal cost share. The case for moving to 100% cost share is compelling for Louisiana since the projected per capita impact of Hurricanes Katrina and Rita exceeds the costs of prior disasters by many multiples - $6,700 per capita or more than thirteen times that of any other disaster in U.S. history. Let me take this opportunity to applaud Senator Landrieu for her continued hard work on this issue and express our thanks and appreciation to House Majority Whip Clyburn for introducing the Hurricanes Katrina and Rita Federal Match Relief Act of 2007, which would grant Louisiana this waiver. We are hopeful Congress will move quickly and vote yes on this important legislation, thereby unleashing an estimated $775 million for local construction projects and enabling us to press the accelerator on our recovery.

Third, let me commend the work of the Ways and Means Committee in shaping a range of federal tax incentives in 2005 to facilitate housing and population recovery in the aftermath of Hurricanes Katrina and Rita. The Katrina Emergency Tax Relief Act of 2005 ("KETRA") and the Gulf Opportunity Zone Act of 2005 ("GOZA") provided a range of tools and resources to finance the first phase of housing recovery in Louisiana, for affordable rental housing and for affordable owner occupied housing. By designating the GO Zone, Rita Zone and Wilma Zone as a difficult development area, the Ways and Means Committee first recognized that the cost of developing affordable rental housing in the GO Zone and Rita Zone would increase dramatically. By providing additional housing credits ("GO Zone Credits") in an amount equal to $18 multiplied by the portion of the State population in the GO Zone as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005, the Ways and Means Committee also recognized the magnitude of the population dislocation in the GO Zone and the importance of providing a stable source of credits to finance affordable and workforce housing in the GO Zone. By treating residences financed in the Go Zone and Rita Zone with the proceeds of qualified mortgage bonds as targeted area residences, the Ways and Means Committee recognized the importance of waiving the first-time homebuyer rule and increasing the family income limits for households qualified to benefit from low interest mortgages as such households purchased new principal residences to replace their prior principal residences damaged or destroyed by the hurricanes. By increasing the maximum amount of qualified renovation loans in the GO Zone or Rita Zones financed with the proceeds of qualified mortgage revenue bonds from $15,000 to $150,000, the Ways and Means Committee recognized that existing owner occupied housing suffered extensive damage and that the $15,000 limit was wholly inadequate.

Fourth, let me share with you the results achieved by the Louisiana Housing Finance Agency with the resources provided by KETRA and GOZA.

-Since the spring of 2006, the Louisiana Housing Finance Agency has issued $336 million of qualified mortgage revenue bonds to finance owner occupied residences throughout the State, of which $100 million were GO Zone Bonds for owner occupied residences exclusively in the GO Zone. This represents a four hundred eighty percent (480%) increase over the historical average of $70 million per year. Over 2,052 households have benefited from the State's low interest financing. Included in the last two issues is a pilot initiative to provide relief to low income home buyers from the increase in casualty and flood insurance premiums that deposits about $165 per month into the borrowers insurance escrow account for a portion of the increased insurance premiums.

-As of December 2006, one hundred percent (100%) of the 2006, 2007 and 2008 GO Zone Credits have been reserved by the Louisiana Housing Finance Agency to affordable housing developments in the GO Zone and one hundred percent of the State's 2006 credit ceiling has been reserved. Out of the 401 applications seeking approximately $397 million in credits, the Agency reserved over $183 million of credits to 240 developments that will produce 16,914 affordable housing units. These credit reservations went to developments that best meet the state's housing priorities as articulated in the Qualified Allocation Plans.

Significantly, the Louisiana Recovery Authority made $667 million in Community Development Block Grant funds available to applicants awarded tax credits from the LHFA. This "Piggyback Program" paired CDBG funds with LIHTC tax credits to make feasible mixed income development, deeply affordable units, and units for the elderly and disabled in permanent supportive housing. Thus far, $440 million in CDBG funds have been awarded to applicants under the Piggyback Program to assist 33 tax credit developments which will create 5,700 of the aforementioned units. In most cases, these mixed income developments will contain at least 60% market rate units and at least 20% deeply targeted units affordable to households earning less than

40% of the Area Median Income. In a few instances, most notably proposals for the redevelopment of public housing, a second mixed income model has been used in which at least 30% of the units will be market rate and no more than 33% will be deeply targeted units.

The Piggyback Program will also help special-needs populations achieve stable housing and successful lives by providing incentives for developers to create Permanent Supportive Housing (PSH) units. PSH households require rents affordable for households at 30% AMI down to zero income. All developments assisted with 2007 and 2008 GO Zone Credits must provide at least 5% of their units for Permanent Supportive Housing (PSH).

Fifth, permit me to thank the Ways and Committee and its majority and minority counsels for supporting amendments to the Internal Revenue Code to (1) extend placed-in-service deadlines in connection with developing affordable housing in the GO Zone and the Rita Zone to December 31, 2010 and (2) simplify the scope of qualified rehabilitation in the GO Zone and Rita Zone. This was one of the key priorities Governor Blanco asked the 110th Congress to consider during her visit to Washington last month.

The Louisiana Housing Finance Agency and its developer partners are diligently working to address significant challenges, including sky-rocketing insurance premiums and rising construction costs, which have delayed the progress of many developments reserved credits in December of 2006. Now, tax credit investors and lenders are concerned about closing affordable housing developments in which credits were reserved based upon a 30% basis boost that will evaporate if the development is not placed in service by the end of December 2008. Developers have already invested a significant amount of time and money in getting these projects to this stage. As Governor Blanco explained during her recent meetings with Congressional leadership, extending the 30% basis boost AND the placed in service date to December 2010 for all GO Zone LIHTC projects will expedite closings and allow developers the time necessary to complete these high priority and urgently needed affordable housing units. Without these extensions, our recovery will be set back

The Louisiana Housing Finance Agency is also pleased that the rules for financing qualified rehabilitation in the GO Zone and Rita Zone with tax-exempt bonds will be simplified by the provisions of Section 2 of the proposed bill. Hurricanes Katrina and Rita did not distinguish between homes built 20 years or earlier and recently built homes. Measuring the percentage of outer and/or inner walls retained in connection with a home damaged in an area suffering a cataclysmic disaster is bureaucratic overkill and hinders population and economic recovery in an area suffering from a major disaster. In the aftermath of a major disaster, qualified rehabilitation should only be based upon the expenditures for rehabilitation (25% or more of the mortgagor's adjusted basis) so that homeowners will be permitted to not only finance the required rehabilitation of their homes but also to refinance the existing mortgage indebtedness at the time the home was either damaged or destroyed by the major disaster.

Finally, permit me to cite several other provisions of the Internal Revenue Code relating to low income housing credits and qualified mortgage bonds that the Ways and Means Committee may wish to consider.

-Per Capita Credits: The magnitude of the rental property loss in Louisiana coupled with the substantial population shifts to areas outside the GO Zone require additional credits to address the need that pre-existed the twin disasters as well as the increased need post-disaster. For a five year period, the per capita credits in Louisiana should be doubled.

-Income Limits: Eliminate language in Section 1400N(a)(5)(B)(iii) disregarding subparagraph (A) in Section 143(f)(3) in connection with the use of GO Zone Bonds to finance owner-occupied residences in the Gulf Opportunity Zone. If an area is to be treated as a targeted area or area of chronic economic distress ("ACED") for a period of time following a major disaster, State and local authorities should have the flexibility of using tax-exempt bond resources to finance owner occupied homes that will accelerate population and economic recovery. This flexibility will be tempered by the retention of the purchase price limitations applicable in such targeted areas.

-Ten Year Rule For Existing Buildings: Waive the restriction on allocating credits to the acquisition costs of buildings in the GO Zone and Rita Zone for existing buildings until January 1, 2011. This waiver is particularly required in connection with bond financed projects that receive the so-called 4% credit in order to generate sufficient credits to complete necessary rehab in a cost effective manner.

-Housing Credits for Mixed Income Housing: Concentrating low-income households in dense developments should be avoided. In the redevelopment of disaster areas where population and economic recovery in a short period of time is extremely critical, credits should be used to redevelop or build new rental units that promote mixed incomes. Incentives for mixed income projects should be provided by increasing the numerator in the unit fraction and floor space fraction to include a limited number of market units for developments in the GO Zone, Rita Zone or Wilma Zone to provide the State flexibility of promoting mixed income housing until January 1, 2011.

-Apply Special Rules under Section 42(i) to qualified residential rental projects under Section 142(d): The definitions and special rules under Section 42(i) for projects receiving low income housing credits from a State's credit ceiling should be available to projects receiving credits as a result of a bond financing under Section 142(d). These special rules under Section 42 that are not available under Section 142(d) include (a) permitting units designated as transitional housing for homeless to qualify as a low-income unit, (b) single-room occupancy units, (c) units occupied by certain students receiving assistance under Title IV of the Social Security Act or enrolled in a job training program receiving assistance under the Job Training Partnership Act or similar Federal, state or local laws and (d) units occupied by full time students if such students are single parents and such parents and children are not dependents of another individual.

Thank you, Mr. Chairman, for permitting me to provide these comments and recommendations.